

[REDACTED]

You make no claim to be a "community" per se. The development covers approximately [REDACTED] acres, with over [REDACTED] acres restricted as hunt parks. The majority of the [REDACTED] property owners are absentee owners.

Membership in your organization is automatic on purchase of a tract of [REDACTED] [REDACTED] [REDACTED], or upon notifying the Board of Directors that a tract has been "repurchased" from a tract holder.

Income is derived from maintenance fees from members, fees for use of the cabins and restaurant, and from repairs made to individual members' property.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if --

(i) It is not organized or operated for profit; and

(ii) It is operated exclusively for the promotion of social welfare."

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. ***"

Revenue Ruling 74-99, 1974-1 Cumulative Bulletin 131, states that a homeowners' association, to qualify for exemption section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof. (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns or maintains must be for the use and enjoyment of the general public.

Inasmuch as membership in your organization is restricted to property owners, and the services and benefits provided are limited primarily to members, it is apparent that you are essentially and primarily formed and operated to provide services and facilities for the business or personal benefit of your members. As such, the presence of these organizational and operational characteristics indicates that you are not primarily promoting in some way the common good and general welfare of the people of the community.

Accordingly, we have concluded that you have not met the requirements of section 501(c)(4) of the Code and that you do not qualify for exemption from Federal income tax.

Although you do not qualify for exemption under section 501(c)(4) of the Code, it appears that you may qualify for treatment under section 528, a section of the Code created by the Tax Reform Act of 1976, which is applicable to certain homeowners associations. The Internal Revenue Service is not ruling on the question of whether organizations qualify for treatment under section 528, and there are no application forms required to be filed. If you believe you qualify for such treatment, you should file Form 1120-H. If you do not qualify under section 528, you are required to file Federal income tax returns on Form 1120. Publication 588, Forms 1120-H and 1120 are enclosed.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file a written protest in accordance with the instructions set forth in the enclosed Publication 892.

If you agree with these conclusions or do not file a written protest, you should file the enclosed Federal income tax return(s) within 30 days with Chief, Employee Plans/Exempt Organizations Division, P. O. Box 2135, Austin, Texas 78768.

Sincerely,


District Director

Enclosures:
Publication 892
Publication 588
Forms 1120-H
Forms 1120